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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,229	06/03/2005	Martin Presche	MY-29PCT	3585
40570	7590	10/17/2006	EXAMINER	
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NEW YORK, NY 10017				PAPER NUMBER
				3654

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/537,229	PRESCHE ET AL.
	Examiner	Art Unit
	Rakesh Kumar	3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07/27/2006.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 June 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**Final Rejection**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over D.C. Clarke (U.S. Patent Number 2,502,311) in view of Hansen (U.S. Patent Number 5,405,047).

Referring to claims 1, 11 and 13. Clarke discloses a tablet dispenser holding a large number of tablets (20; Figure 7) and for dispensing them one by one (Col. 1, line 8), comprising a housing (including members 5 and 15) with two box shaped housing halves (members 5 and 15) of equal length which are assembled on each other (see Figure 9); a housing bottom part (5; Figure 1) with a dispensing opening (25; Figure 10), arranged in a side wall (14c; Figure 9) of a corner of the housing, for individual tablets (20) and a housing top part (15) without a front wall at a dispensing side (see Figure 9) with a chase barrier (16) arranged in the interior of the housing at a front side (see position of member 16; Figure 7), the housing parts being connected so as to be displaceable relative to one another parallel to a container axis in opposite directions (member 5 and 15 are *slidably displaced in the opposite directions along an axis*

*running along side 14c), by means of the displacement the dispensing opening (25) is alternately opened (see Figure 10) and closed (see Figure 9), wherein,*

- (a) the chase barrier (16) is arranged such that its lateral distance to the side wall (side 14c opposite of opening 25; Figure 10) of the housing top part (15c) located at the dispensing side is larger than the diameter of the tablets (20), and that the side wall (space between end point of walls 8 and 9 and the lateral face of 16 in Figure 7) of the housing bottom part (5) located at the dispensing side (side with the opening 25; Figure 10) is smaller than the diameter of the tablets (20),
- (b) a dead storage barrier (dead storage area 23 which is devoid of tablets 20; see Figure 1 when the two halves are closed) is arranged in the interior of the housing (5; Figure 7) on the housing bottom part (5) in the housing corner opposite (see positions in Figure 6 opposite the dispensing opening) the dispensing opening (25),
- (c) the dead storage barrier (dead storage area 23 which is devoid of tablets 20; see Figure 1 when the two halves are closed) and the chase barrier (16) in the interior the housing (10) are designed and arranged to be displaceable relative to each other such that they act together as dosing elements (see *movement relative to each other in Figures 6 and 7*) and with each displacement travel of the housing halves only one tablet at a time reaches a dispensing area of the dispensing opening (20; see Figure 7).

Clarke does not disclose the chase barrier (16) as having a nose-shaped design with a wider back, which protrudes in steps at the dispensing side.

Hansen discloses a tablet dispenser comprising a chase barrier (see shaded portion below line indicated by member 12; Figure 2) as having a nose-shaped design with a wider back, which protrudes in steps (see layered steps) at the dispensing side.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke to include a chase barrier as having a nose-shaped design with a wider back, which protrudes in steps at the dispensing side as taught by Hansen because the step like restriction of the chase barrier would only allow a single tablet to be dispensed at a time.

Referring to claim 2. Clarke discloses a tablet dispenser wherein the dead storage barrier (23) is arranged as far up the front side the housing (see position of member 23 in Figure 4) located at the dispensing side such (side 14c) that its wider back (the length portion of member 23) abuts the front wall of the housing bottom part (5) in the starting position of the dispenser (position in Figure 9).

Referring to claim 3. Clarke does not specifically disclose a tablet dispenser wherein the dead storage barrier (23) partially fills the space between the chase barrier (16) and the side wall (side 14c opposite of opening 26) of the housing bottom part (5).

Hansen discloses a dead storage barrier (*comprising the enclosed area by members 3, 13 and 11; Figure 3*) wherein, the dead storage barrier (*enclosed area by members 3, 13 and 11*) in the housing interior (located inside the outer casing 11) located at the corner of the dispenser housing (11) opposite the dispensing opening (8) is dimensioned such that it at least partially fills the space between the chase barrier (see shaded portion below line indicated by member 12; Figure 2) and the side wall (left side of 11 in Figure 5) of the housing bottom part (Figure 1) at the dispensing side in a starting position of the tablet dispenser (starting position in Figure 3) such that it closes off the space between (see space between member 9 and 13 in Figures 3 and 5) the chase barrier (see shaded portion below line indicated by member 12; Figure 2) and the side wall (left side of 11 in Figure 5) of the housing bottom (Figure 1) part at the dispensing side to the front (see front side of dispenser) with its lower edge (9) and thus prevents any possible trail of tablets around the front of chase barrier (see Figure 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke and include a dead storage barrier in the housing interior, dimensioned such that it at least partially fills the space between the chase barrier and the side wall as taught by Hansen thus, selectively restricting access to the opening for dispensing tablets, because the disposing a dead storage barrier inline with a chase barrier would allow the dispenser to be smaller in size and

effectively restrict the tablet passage such that only one tablet is released per dispensing cycle.

Referring to claims 6 and 10. Clarke discloses a tablet dispenser wherein, the front wall (walls 7 and 8: Figure 7) of the housing bottom part (5) located at the dispensing side exhibits a recess (17) whose width is smaller than the tablet diameter (see tablet diameter size) and corresponds to the width of the wide back of the chase barrier (16) and which is closed by means of the inserted wide back of the chase barrier (16) in closed tablet dispenser (Figure 9 and 6).

Referring to claim 7. Clarke discloses a tablet dispenser wherein, a cam (21; Figure 4) is arranged on the inside top surface of housing top part (15c) which restricts the displacement of the housing top part (15c) during the dispensing of tablets (20) by abutting the rear front wall of the housing bottom part (5) opposite the dispensing opening (Figure 9 and 10).

Referring to claim 12. Referring to claim 12, Clarke discloses a tablet dispenser wherein the two halves of the dispenser housing are connected to each other at both of their longitudinal side walls by means of a detachable locking mechanism (member 14; Figure 3)

Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke in view of Hansen as applied to claim 1 above, and further in view of Swenson et al. (U.S. Patent Number 3,782,584).

Referring to claim 8. Swenson discloses a tablet dispenser wherein, an arched web (30; Figure 2) is arranged on the inside top surface of the top part (14) next to the wall (21; Figure 3), which by contacting the top of wall (21), hampers the unintentional opening and closing of the tablet dispenser and which signals the opening and closing with a tactile sensation (Col. 4 line 1-19).

Swenson does not disclose the arched web as being next to a chase barrier.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke in view of Hansen and include a arched web projection as taught by Swenson and providing a hampering means to prevent unintentional opening and closing of the dispenser. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have disposed the arched web members of Swenson to be positioned next to the chase barrier (16; Clarke) and in contact with the dead storage barrier (23; Clarke).

Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke in view of Hansen as applied to claim 1 above, and further in view of Makarevitz (U.S. Patent Number 3,773,215).

Referring to claim 4. Makarevitz discloses a tablet dispenser wherein for tablets (A; Figure 1) whose thickness is substantially smaller than the housing depth (see Figure 5), an additional ramp-like dosing element (16; Figure 4) is mounted on the housing for pre-dosing the tablets (A) in the interior of the dispenser housing (11) in the intake area toward the dispensing opening (see Figure 1).

Makarevitz does not specifically disclose the tablets as being flat and does not disclose the size of the depth of the housing to be large enough to hold two or more tablets side by side. Furthermore, Makarevitz does not disclose the ramp element being disposed on the bottom part.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke in view of Hansen and include the teaching of Makarevitz and make the depth of the housing of the dispenser to be large enough to hold two or more flat tablets side by side and furthermore, modify the inner housing of the dispenser to include a ramp like element to pre dose the tablets such that only a single tablet the dispensing chamber. Because increasing the depth of the housing would allow the dispenser to carry a larger quantity of tablets and by adding a

ramp like element in the bottom of the housing would prevent jamming of tablets in the dispensing as the tablets are dispensed.

Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke in view of Hansen in view of Makarevitz as applied to claim 4 above, and further in view of S. Lowen (U.S. Patent Number 2,918,167).

Referring to claim 5. Lowen discloses a tablet dispenser wherein the ramp-like dosing element (38; Figure 5) is concavely shaped (Figure 7) from the bottom side of the housing bottom part with a solid web arranged in this cavity.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke in view of Hansen in view of Makarevitz and include a concave shaped ramp for the tablet dispenser as disclosed by the teaching of Lowen and furthermore, dispose multiple web like structures to support the ramp rather than the a solid ramp to prevent deformation because it would reduce the material cost of the dispenser.

Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke in view of Hansen as applied to claim 1 above, and further in view of Ackeret (U.S. Patent Number 4,046,255).

Referring to claim 9. Ackeret discloses a cassette container (Figure 9) wherein a repositioning device with a spring element (414) is arranged in the area of the housing top part (410) opposite the dispensing opening (see direction of opening; Figure 9) which supports itself at the rear front wall of the housing bottom part (401) and which is tensioned during the dispensing of the cassette by the displacement of the housing top part (410).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke in view of Hansen and include a spring element at the opposite side of the dispensing end as taught by Ackeret to provide a repositioning force during the dispensing of tablets, because it make the closing of the dispenser easier.

***Response to Arguments***

Applicant's arguments filed 07/27/2006 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant argues that “Clarke has a web shaped barrier 16” and does not disclose a chase barrier having a wider back that protrudes in steps. The Office Action filed 03/23/2006 (on page 5) states “Clark does not discloses the chase barrier (16) as having a nose-shaped design with a wider back, which protrudes in steps at the dispensing side however in light of the teaching disclosed by Hansen (see above) an obstruction (12) is disclosed as having a nose-shaped configuration (Figure 2; Hansen). It is in the view of the Office the teachings of Clarke in view of Hansen teach a “chase barrier” having a nose shaped configuration as claimed by the applicants claim limitations.

In regards to the arguments pertaining to “a dead storage barrier,” Clarke teaches of a compartment confined by members (7 and 24; compartment holding element 23) in the housing wherein the “dead storage barrier” is devoid of tablets (20) which are stored in the main compartment (10) and cannot pass into the “dead storage barrier” compartment. It is in the view of the Office that the prior art disclosed read on the claim limitations as presented in the applicant’s claims.

Applicant’s amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chandler (US 2,348,449) teaches a nose shaped barrier (2);

King (US 2,877,927) teaches a nose shaped barrier (18);

Makarevitz (US 3,773,215) teaches a nose shaped barrier (19);

Duell (US 2,359,832) teaches a nose shaped barrier (17a);

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RK  
October 13, 2006

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